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EXAMINER

NGUYEN, TRI V

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/966,026
Filing Date: September 28, 2001
Appellant(s): NIELSEN, PAUL

MAILED
SEP 19 2007
GROUP 1700

Gregory Welte
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed on 05/29/2007 appealing from the Office action mailed on 10/12/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The Examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6381626

De Leo et al.

04-2002

Calvey, Mark. "For Banks, ATM advertising could be right on the money." San Francisco Business Times. July 19, 1996.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1, 2, 4, 7-9, 11, 14-17, 19-22, 24-29 are rejected under 35 U.S.C. 102(e) as being anticipated by De Leo et al.

Claim 1: De Leo et al. discloses a method of selecting advertisements for display on or adjacent to a plurality of self-service terminals comprising the steps of:

- (a) collecting environment data related to the environment of each terminal including the nature of businesses nearby the terminal (col 6, lines 42-65; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);
- (b) collecting transaction data indicating the type and time of transactions carried out at the terminal (col 5, lines 43 to col 6, line 6); and
- (c) storing the collected data in a data warehouse (col 6, lines 42-65; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 2: De Leo et al. discloses a method according to claim 1, further comprising the step of:

- (d) collecting advertising data which describes the type and content of one or more advertisement displayed on or adjacent to the terminal at particular times (col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

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Claim 4: De Leo et al. discloses a method according to claim 1, wherein the data is collected and stored in real time or near real time (col 5, line 43 to col 6, line 6; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 7: De Leo et al. discloses a method according to claim 2, further comprising the steps of

(e) querying the data warehouse to determine which terminals are located on sites at which a selected business activity is carried out (col 6, lines 7 - 22; col 6, lines 42- 65 and col 8, lines 24 - 43); and

(f) selecting an advertisement for display which includes content related to that business activity (col 5, lines 19 – 42).

Claim 8: De Leo et al. discloses a method according to claim 2, further comprising the steps of:

(e) querying the data warehouse to calculate a statistical distribution of the frequency of different transactions occurring at a terminal (col 5, lines 19-60 and col 6, lines 7 - 22); and

(f) selecting an advertisement for display at the terminal dependent on the statistical distribution (col 5, lines 19-60 and col 6, lines 7 - 22).

Claim 9: De Leo et al. discloses a method of selecting advertisements for display on or adjacent to a plurality of self-service terminals comprising the steps of:

(a) collecting environment data related to the environment of each terminal including the nature of businesses nearby the terminal (col 6, lines 42-65; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);

(b) collecting advertising data related to the type and content of one or more advertisement displayed on or adjacent to the terminal at particular times(col 5, line 43 to col 6, line 6; col 6, lines 42-65; col 7, line 23 to col 8, line 4 and col 8, lines 24-43); and

(c) storing the collected data in a data warehouse (col 6, lines 42-65; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 11: De Leo et al. discloses a method according to claim 9, wherein the data is

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collected and stored in real time or near real time (col 5, line 43 to col 6, line 6; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 14: De Leo et al. discloses a method according to claim 9, further comprising the steps of

(d) querying the data warehouse to determine which terminals are located on sites at which a selected business activity is carried out (col 6, lines 7 - 22; col 6, lines 42- 65 and col 8, lines 24 - 43); and

(e) selecting an advertisement for display which includes content related to that business activity (col 5, lines 19 – 42).

Claim 15: De Leo et al. discloses a method according to claim 9, further comprising the steps of:

(d) querying the data warehouse to calculate a statistical distribution of the frequency of different transactions occurring at a terminal (col 5, lines 19-60); and

(e) selecting an advertisement for display at the terminal dependent on the statistical distribution (col 5, lines 19-60 and col 6, lines 7 - 22).

Claim 16: De Leo et al. discloses a data warehouse operable to receive data from a network of self-service terminals comprising:

(a) means for holding environment data related to the environment of each terminal including its location and the nature of a business nearby the terminal (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);

(b) means for holding transaction data indicating the type and time of transactions carried out at the terminal (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43); and

(c) the data warehouse being operable to provide information in real time or near real time for selecting advertisements for display on or adjacent to one or more of the plurality of self-service terminals (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

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Claim 17: De Leo et al. discloses a data warehouse according to claim 16, further comprising means for holding advertising data indicating the type and content of one or more advertisement displayed on or adjacent to the terminal at particular times (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 19: De Leo et al. discloses a data warehouse according to claim 16, further comprising means for determining which terminals are located on or within a predetermined distance of sites at which a selected business activity is carried out (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 7 -22; col 6, lines 42 - 65; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 20: De Leo et al. discloses a data warehouse according to claim 17, further comprising means for calculating a statistical distribution of the frequency of different transactions occurring at a terminal and selecting an advertisement for display at the terminal dependent on the statistical distribution (col 5, lines 19-60 and col 6, lines 7 - 22).

Claim 21: De Leo et al. discloses a data warehouse according to claim 16, further comprising means for determining which transactions occur at one or more terminal within a predetermined time period of a public event or a sporting event (col 5, lines 20-43).

Claim 22: De Leo et al. discloses a data warehouse operable to receive data from a network of self-service terminals comprising:

- (a) means for holding environment data which describes the environment of each terminal including data indicating its location or the nature of a business nearby the terminal (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);
- (b) means for holding advertising data related to the type and content of one or more advertisement displayed on the terminal or adjacent the terminal at particular times (col

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3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43); and

(c) the data warehouse being operable to provide information in real time or near real time for selecting advertisements for display on or adjacent to one or more of the plurality of self-service terminals (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 24: De Leo et al. discloses a data warehouse according to claim 22, further comprising means for determining which terminals are located on or within a predetermined distance of sites at which a selected business activity is carried out (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 25: De Leo et al. discloses a data warehouse according to claim 22, further comprising means for calculating a statistical distribution of the frequency of different transactions occurring at a terminal and selecting an advertisement for display at the terminal dependent on the statistical distribution (col 5, lines 19-60 and col 6, lines 7 - 22).

Claim 26: De Leo et al. discloses a data warehouse according to claim 22, further comprising means for determining which transactions occur at one or more terminal within a predetermined time period of a public event or a sporting event (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 27: De Leo et al. discloses a self-service terminal comprising:

(a) display means for displaying advertising material (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);

(b) network connection means for coupling the terminal to a self-service network (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);

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(c) means for receiving commands from the network which determine what advertising content is to be displayed on the display means and at what time (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43); and

(d) means for sending information to the network which identifies which transactions are occurring at the terminal and at what time they occur (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 28: De Leo et al. discloses a self-service terminal according to claim 27, further comprising means for sending information to the network which explicitly identifies what advertising material was displayed on the display means during a transaction at the terminal (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

Claim 29: De Leo et al. discloses a method of analyzing a self-service network comprising the steps of:

(a) holding in a database data describing transactions performed by a terminal in the network and advertising content displayed on or adjacent the terminal substantially at the time of the transaction (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);

(b) gathering terminal data from terminals in the network which describes transactions performed by each terminal in the network and respective advertising content displayed on or adjacent each terminal (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43);

(c) entering the terminal data into the database (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43); and

(d) analyzing the terminal network by querying the data in the database (col 3, lines 22-50; col 5, line 43 to col 6, line 6, col 6, lines 23 - 41; col 7, line 23 to col 8, line 4 and col 8, lines 24-43).

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2. Claims 3, 5, 6, 10, 12, 13, 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Leo et al. in view of Calvey.

Claim 3: De Leo et al. discloses a method according to claim 1, but does not explicitly recites wherein the plurality of terminals are distributed across more than one deployer network. In an analogous art, Calvey teaches that it is known to use more than one deployer network as set forth in page 1, § 3 and 4 to reach a greater number of users. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with the distribution across more than one deployer network as taught by Calvey. One would have been motivated to modify the method of De Leo et al. to reach a greater audience of users that frequent different deployer network.

Claim 5: De Leo et al. discloses a method according to claim 2, but does not explicitly recites further comprising the step of:

(e) querying the data warehouse to determine the relationship between the effectiveness of an advertisement and the terminal on or adjacent which it is displayed. In an analogous art, Calvey teaches that it is known to determine the relationship between the effectiveness of an advertisement and the terminal on or adjacent which it is displayed as set forth in page 2, § 8 and 9 to better estimate the efficiency of the advertisement shown. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with the determination of the relationship between the effectiveness of an advertisement and the terminal on or adjacent which it is displayed as taught by Calvey. One would have been motivated to modify the method of De Leo et al. to better estimate the efficiency of the advertisement shown thus allowing for improvements in the marketing scheme and maximizing profitability.

Claim 6: De Leo et al. discloses a method according to claim 5, but does not explicitly recites wherein the effectiveness of an advertisement is measured by determining how often the display of an advertisement on or adjacent a terminal is substantially coincident with a transaction which is related to the advertising content, being initiated by a user at that terminal. De Leo et al. teaches the variables of the frequency of the display of an

advertisement, the content of the advertisement and the timing during the day (col 5, lines 19 – 43). In an analogous art, Calvey teaches that it is known to determine the effectiveness of displaying advertising material as set forth in page 1, § 8 and 9 to better estimate the efficiency of the advertisement shown. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with measuring the effectiveness of displaying advertisements as taught by Calvey. One would have been motivated to modify the method of De Leo et al. to better estimate the efficiency of the advertisement shown thus allowing for improvements in the marketing scheme and maximizing profitability.

Claim 10: De Leo et al. discloses a method according to claim 9, but does not explicitly recites wherein the plurality of terminals are distributed across more than one deployer network. In an analogous art, Calvey teaches that it is known to use more than one deployer network as set forth in page 1, § 3 and 4 to reach a greater number of users. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with the distribution across more than one deployer network as taught by Calvey. One would have been motivated to modify the method of De Leo et al. to reach a greater audience of users that frequent different deployer network.

Claim 12: De Leo et al. discloses a method according to claim 9, but does not explicitly recites further comprising the step of:

(d) querying the data warehouse to determine the relationship between the effectiveness of an advertisement and the terminal on or adjacent which it is displayed. In an analogous art, Calvey teaches that it is known to determine the relationship between the effectiveness of an advertisement and the terminal on or adjacent which it is displayed as set forth in page 2, § 8 and 9 to better estimate the efficiency of the advertisement shown. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with the determination of the relationship between the effectiveness of an advertisement and the terminal on or adjacent which it is displayed as taught by Calvey. One would have

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been motivated to modify the method of De Leo et al. to better estimate the efficiency of the advertisement shown thus allowing for improvements in the marketing scheme and maximizing profitability.

Claim 13: De Leo et al. discloses a method according to claim 12, but does not explicitly recites wherein the effectiveness of an advertisement is measured by determining how often the display of an advertisement on or adjacent a terminal is substantially coincident with a transaction which is related to the advertising content, being initiated by a user at that terminal. De Leo et al. teaches the variables of the frequency of the display of an advertisement, the content of the advertisement and the timing during the day (col 5, lines 19 – 43). In an analogous art, Calvey teaches that it is known to determine the effectiveness of displaying advertising material as set forth in page 1, § 8 and 9 to better estimate the efficiency of the advertisement shown. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with measuring the effectiveness of displaying advertisements as taught by Calvey. One would have been motivated to modify the method of De Leo et al. to better estimate the efficiency of the advertisement shown thus allowing for improvements in the marketing scheme and maximizing profitability.

Claim 18: De Leo et al. discloses a data warehouse according to claim 17, but does not explicitly recites further comprising means for determining how often the display of an advertisement on or adjacent a terminal is substantially coincident with a transaction which is related to the advertising content, being initiated by a user at that terminal. De Leo et al. teaches the variables of the frequency of the display of an advertisement, the content of the advertisement and the timing during the day (col 5, lines 19 – 43). In an analogous art, Calvey teaches that it is known to determine the effectiveness of displaying advertising material as set forth in page 1, § 8 and 9 to better estimate the efficiency of the advertisement shown. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with measuring the effectiveness of displaying advertisements as taught by Calvey. One would have been motivated to modify the

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method of De Leo et al. to better estimate the efficiency of the advertisement shown thus allowing for improvements in the marketing scheme and maximizing profitability.

Claim 23: De Leo et al. discloses a data warehouse according to claim 22, but does not explicitly recites further comprising means for determining how often the display of an advertisement on or adjacent a terminal is substantially coincident with a transaction which is related to the advertising content, being initiated by a user at that terminal. De Leo et al. teaches the variables of the frequency of the display of an advertisement, the content of the advertisement and the timing during the day (col 5, lines 19 – 43). In an analogous art, Calvey teaches that it is known to determine the effectiveness of displaying advertising material as set forth in page 1, § 8 and 9 to better estimate the efficiency of the advertisement shown. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by De Leo et al., with measuring the effectiveness of displaying advertisements as taught by Calvey. One would have been motivated to modify the method of De Leo et al. to better estimate the efficiency of the advertisement shown thus allowing for improvements in the marketing scheme and maximizing profitability.

(10) Response to Argument

Appellants argue

Regarding claim 1, Appellants assert that the De Leo et al. reference does not teach the instant limitation:

- a. “collecting environment data” which includes “the nature of nearby business” (page 19). Appellants discuss how the feature of collecting the time-of-day does not meet the instant claim limitations and expand by citing various scenarios based on the time-of-day data collection such as how the “environment” in Detroit is different/similar to the environment in Cincinnati. Furthermore, Appellants argue as to the definition and interpretation of the “environment” terminology.

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b. collecting transaction data (page 23). Appellants discuss how the “transactions” taught by De Leo et al. differ from Appellants’ “transactions” directed to the customer’s ATM transactions.

Examiner’s response

The Examiner respectfully disagrees as the De Leo et al. reference is directed to location and time based advertisement on an ATM. The collection of environment is therefore implicit since the advertisement has to be shown to a specific location in a predetermined schedule. For example, De Leo et al. teach the feature of displaying a promotion for a fast food restaurant at during lunch hours and a motion pictures during the evening hours - see col 5, lines 26-36 (it would be worthless to display an advertisement promoting a restaurant that is not nearby or a movie that is not shown at a nearby movie theater during a specific time window of a few hours). The localized feature is further mentioned as De Leo et al. recites that “an advertisement for a local fast food establishment can have an associated coupon for a daily meal discount” (col 6, lines 53-55). De Leo et al. teach a targeted advertising system which includes various parameters such as “time, location, customer demographics” that are collected via a “play-log” (see col 8, lines 29-43). Furthermore, De Leo et al. teach advertisement based on the transaction being processed at the ATM by the customer as well as various parameters associated with the customer (col 5, lines 43 to col 6, line 6). Thus the collected data are queried during the advertising selection process to a data warehouse. De Leo et al. teach the feature of database storage by the host system (col 4, line 53-60) and collection of data such as “message files, configuration files and transaction data” (col 8, lines 44-45) and “play-log” to be used for accounting purposes (col 8, lines 39-43). Regarding the difference in the transaction between De Leo et al.

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and Appellants, the Examiner notes that De Leo et al. defines transactions as “data read from the banking card, debit card or credit card of a terminal user; data entered by a user, such as e PIN number, transaction type, transaction amount, etc. and data sent by the host 12 relating to the transaction, such as requests for further information regarding selection of an account, regarding a usage fee, transaction approvals or transaction denial messages and responses to such requests” (col 4, lines 1-8) which are commensurate with a customer’s ATM transactions.

Appellants argue

Regarding claim 2, Appellants assert that the De Leo et al. reference does not teach the instant limitation of creating a “history of the type of advertising previously displayed” (page 24).

Examiner’s response

The Examiner respectfully disagrees as the De Leo et al. teach a targeted advertising system which includes various parameters such as “time, location, customer demographics” that are collected via a “play-log” which are then used in the “billing a sponsor of the message” (see col 8, lines 29-43) thus a history of advertisement displayed is created in order to bill the proper sponsors. Furthermore, De Leo et al. teach the features of cycling the advertisements to specific times and locations (col 5, lines 53-55) and updated configuration files (col 6, lines 7-23) which are based on a history of advertising data being collected.

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Appellants argue

Regarding claim 4, Appellants assert that the De Leo et al. reference does not teach the feature of “real time” data collection (page 24). Appellants illustrate the claim limitation via a an example of effective advertising feedback. Furthermore, Appellants discuss how the “configuration file” taught by De Leo et al. does not meet the instant limitation and illustrate a logical fallacy in the Examiner’s interpretation via a potential scenario on targeted advertising.

Examiner’s response

The Examiner respectfully disagrees as De Leo et al. teaches the use of advertising targeted to specific transactions; thus, the collection of data is deemed to be in “real-time” since the data regarding the occurring transaction has to be collected in order to select the targeted advertising to be shown in course of the customer’s interaction with the ATM (col 5, lines 44 to col 6, line 7). Furthermore, the Examiner respectfully notes that the claim language is “in real time **or near real time**” in line 2 (emphasis added by the Examiner) with “near real time” being defined in the specification as “possibly with a lag of a few hours” (page 2, lines 20-22).

Appellants argue

Regarding claim 7, Appellants assert that the De Leo et al. reference does not teach

- a. the feature of “which terminals are located on sites at which a selected business activity is carried out” (page 27).
- b. “query” on “the data warehouse” (page 28). Appellants discuss how the “data warehouse” is a singular term and the mere fact of collecting data does not necessarily

imply a "data warehouse" (page 29). Appellants further argue that the query and "specific types of business" are not present in the De Leo et al. reference.

Examiner's response

The Examiner respectfully disagrees as the De Leo et al. reference is directed to location based targeted advertising which requires knowledge of the location of the terminal and the nearby business. For example, De Leo et al. teach the feature of displaying a promotion for a fast food restaurant at during lunch hours and a motion pictures during the evening hours - see col 5, lines 26-36 (there would be no point in displaying a promotion to a restaurant that is not nearby or a movie that is not shown at a nearby movie theater during a specific time window of a few hours). The localized feature is further taught as De Leo et al. recites that "an advertisement for a local fast food establishment can have an associated coupon for a daily meal discount" (col 6, lines 53-55).

The Examiner points out Appellants' definition of a data warehouse "the term "data warehouse" is used to refer to a storage means which is able to store data in such a manner that it is easily and quickly accessible in real time. A data warehouse is also operable to perform complex pattern analysis of the data." (page 5, lines 24-26). De Leo et al. teach a targeted advertising system which includes various parameters such as "time, location, customer demographics" that are collected via a "play-log" (see col 8, lines 29-43). Thus the collected data are queried during the advertising selection process to a data warehouse. De Leo et al. teach the feature of database storage by the host system (col 4, line 53-60) and collection of data such as "message files, configuration files and transaction data" (col 8, lines 44-45) and "play-log" to be used for accounting purposes (col 8, lines 39-43). The features of showing specific

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advertisements to specific times and locations, updated configuration files and selection of a transaction-based advertisement are commensurate with the data warehouse functions defined by Appellants.

Appellants argue

Regarding claim 8, Appellants assert that the De Leo et al. reference does not teach the feature of a "statistical distribution" (page 30). Appellants point out that "configuration file" taught by De Leo et al. does not meet the required "statistical distribution."

Examiner's response

The Examiner respectfully disagrees as De Leo et al. teach the feature of showing advertisement depending on the current transaction and requirement of the sponsors (col 5, line 43 to col 6, line 9) thus a statistical distribution is implied since a frequency parameter is needed. Furthermore, a reasonable interpretation of a statistical distribution includes a range value of 0 to 1 thus the selection of the ad based on the type of transaction (thus having a value of 1) is construed as meeting the claim limitation.

Appellants argue

Regarding claim 9, Appellants assert that the De Leo et al. reference does not teach the feature of a "collecting data about environment of the terminal" (page 32). Furthermore, Appellants advance an interpretation of claim 9 by stating that a history of the event is created and that this feature is not shown in the De Leo et al. reference.

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Examiner's response

The Examiner respectfully disagrees as the De Leo et al. reference is directed to location based targeted advertising which requires knowledge of the location of the terminal and the nearby business. For example, De Leo et al. teach the feature of displaying a promotion for a fast food restaurant at during lunch hours and a motion pictures during the evening hours - see col 5, lines 26-36 (there would be no point in displaying a promotion to a restaurant that is not nearby or a movie that is not shown at a nearby movie theater during a specific time window of a few hours). The localized feature is further taught as De Leo et al. recites that "an advertisement for a local fast food establishment can have an associated coupon for a daily meal discount" (col 6, lines 53-55).

Furthermore, De Leo et al. teach a targeted advertising system which includes various parameters such as "time, location, customer demographics" that are collected via a "play-log" which are then used in the "billing a sponsor of the message" (see col 8, lines 29-43) thus a history of advertisement displayed is created in order to bill the proper sponsors. Furthermore, De Leo et al. teach the features of cycling the advertisements to specific times and locations (col 5, lines 53-55) and updated configuration files (col 6, lines 7-23) which are based on a history of advertising data being collected.

Appellants argue

Regarding claim 11, Appellants assert that the De Leo et al. reference does not teach the feature of a "collecting data about the environment of the terminal in real time with transactions at the terminal" (page 33) without any further discussion of discrepancies between De Leo et al. and the instant claim limitation.

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Examiner's response

The Examiner respectfully disagrees as the De Leo et al. reference is directed to location based targeted advertising which requires knowledge of the location of the terminal and the nearby business. For example, De Leo et al. teach the feature of displaying a promotion for a fast food restaurant at during lunch hours and a motion pictures during the evening hours - see col 5, lines 26-36 (there would be no point in displaying a promotion to a restaurant that is not nearby or a movie that is not shown at a nearby movie theater during a specific time window of a few hours). The localized feature is further taught as De Leo et al. recites that "an advertisement for a local fast food establishment can have an associated coupon for a daily meal discount" (col 6, lines 53-55). Furthermore, the De Leo et al. reference teaches the use of advertising targeted to specific transactions; thus, the collection of data is deemed to be in "real-time" since the data regarding the occurring transaction has to be collected in order to select the targeted advertising to be shown in course of the customer's interaction with the ATM (col 5, lines 44 to col 6, line 7). The Examiner respectfully notes that the claim language is "in real time or near real time" in line 2 with "near real time" being defined in the specification as "possibly with a lag of a few hours" (page 2, lines 20-22) which is commensurate with the feature of an updated configuration file.

Appellants argue

Regarding claims 14 and 15, Appellants points to the discussion of claims 7 and 8 respectively.

Examiner's response

Examiner also points to the response of claims 7 and 8 for a detailed discussion.

Appellants argue

Regarding claim 16, Appellants assert that the De Leo et al. reference does not teach the feature of

- a. "environment data" (page 33)
- b. "real time" (page 33). Appellants discuss the feature of "a user can select advertising based on new, current information which was not previous contained in the data warehouse" (page 33) which differs from the "configuration file" of De Leo et al. which has a time delay.

Examiner's response

The Examiner respectfully disagrees as the De Leo et al. reference is directed to location based targeted advertising which requires knowledge of the location of the terminal and the nearby business. For example, De Leo et al. teach the feature of displaying a promotion for a fast food restaurant at during lunch hours and a motion pictures during the evening hours - see col 5, lines 26-36 (there would be no point in displaying a promotion to a restaurant that is not nearby or a movie that is not shown at a nearby movie theater during a specific time window of a few hours). The localized feature is further taught as De Leo et al. recites that "an advertisement for a local fast food establishment can have an associated coupon for a daily meal discount" (col 6, lines 53-55). Furthermore, the De Leo et al. reference teaches the use of advertising targeted to specific transactions; thus, the collection of data is deemed to be in "real-time" since the data regarding the occurring transaction has to be collected in order to select the targeted advertising to be shown in course of the customer's interaction with the ATM (col 5, lines 44 to col 6, line 7). The Examiner respectfully notes that the claim

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language is “in real time or near real time” in line 2 with “near real time” being defined in the specification as “possibly with a lag of a few hours” (page 2, lines 20-22) which is commensurate with the feature of an updated configuration file.

Appellants argue

Regarding claim 17, Appellants assert that the De Leo et al. reference does not teach the feature of creating a “history of advertising displayed at the terminal” (page 34).

Examiner's response

The Examiner respectfully disagrees as De Leo et al. teach a targeted advertising system which includes various parameters such as “time, location, customer demographics” that are collected via a “play-log” which are then used in the “billing a sponsor of the message” (see col 8, lines 29-43) thus a history of advertisement displayed is created in order to bill the proper sponsors. Furthermore, De Leo et al. teach the features of cycling the advertisements to specific times and locations (col 5, lines 53-55) and updated configuration files (col 6, lines 7-23) which are based on a history of advertising data being collected.

Appellants argue

Regarding claims 19 and 20, Appellants points to the discussion of claims 7 and 8 respectively.

Examiner's response

Examiner also points to the response of claims 7 and 8 for a detailed discussion.

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Appellants argue

Regarding claim 21, Appellants assert that the teaching of the De Leo et al. reference is not commensurate with the claimed limitation of an “event”, a time-window around the “event” and determining which “transactions” at the ATM occur in the window.

Examiner's response

The Examiner respectfully disagrees as De Leo et al. teach a targeted and location based advertising system in which data are collected on transactions being performed in the advertisement selection process and the feature of a time-window public event such as movie show (col 5, lines 26-30 and col 5, lines 44 to col 6, line 7).

Appellants argue

Regarding claims 22, 24, 25 and 26, Appellants points to the discussion of claims 1, 7, 8 and 21 respectively.

Examiner's response

Examiner also points to the response of claims 1, 7, 8 and 21 for a detailed discussion.

Appellants argue

Regarding claim 27, Appellants assert that the De Leo et al. reference does not teach the “means for sending information to the network which identifies which transactions are occurring at the terminal and at what time they occur” (page 37). Appellants state that Appellants cannot locate the claimed feature in the De Leo et al. reference. Furthermore, Appellants state that no communication is needed in the De Leo et al. system since the “host computer” controls the ATM (page 37).

Examiner's response

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The Examiner respectfully disagrees as the De Leo et al. reference teaches the feature of advertisements targeted to specific transactions being performed at the ATM; thus, the collection of data is deemed to be in "real-time" since the data regarding the transaction has to be collected in order to select the targeted advertising to be shown in course of the customer's interaction with the ATM (col 5, lines 44 to col 6, line 7). The Examiner respectfully notes that the claim language is "in real time or near real time" in line 2 with "near real time" being defined in the specification as "possibly with a lag of a few hours" (page 2, lines 20-22) which is commensurate with the feature of an updated configuration file. Furthermore, De Leo et al. teach various means of communication between the terminal and the host system such as via satellite link, telephone lines, fiber optics (col 4, lines 46-52).

Appellants argue

Regarding claim 28, Appellants point to the discussion on claim 27 to be applicable to claim 28. Furthermore, Appellants argue that claims 27 and 28 taken together state the terminals send information about the "transactions" and "advertising" (page 38).

Examiner's response

Examiner also points to the response of claim 27 for a detailed discussion.

Appellants argue

Regarding claim 29, Appellants argue that the claim limitations are not found and request an identification of claimed limitation in the De Leo et al. reference.

Examiner's response

Examiner also points to the response of claims 1 and 7 for a detailed discussion.

Appellants argue

Regarding claim 3, Appellants argue that

- a. the Calvey reference teaches two "deployer networks" which differs from the claimed terminals in both "deployer networks" (page 40). Furthermore, Appellants make an assumption that the terminals would perform different actions.
- b. the feature of a "single data ware house" is absent (page 41).
- c. No valid teaching has been given. Furthermore, Appellants illustrates the problems with the combination rationale by stating that (1) it is a naked conclusion, (2) no basis of comparison is given, (3) no logical combination, (4) no prior teaching, motivation or suggestion, (5) no logical connection and (6) no indication that the resulting combination would work.

Examiner's response

The Examiner respectfully disagrees as the De Leo et al. reference teaches an implementation of the targeted advertising system on various networks (col 5, lines 1-7). In an analogous art, the Calvey reference teaches a localized advertising based system on various networks, e.g. ATM advertisement of specials of a local business and BankAmerica and Wells Fargo Bank (page 1 parag. 3, 4 and 7). Thus the resulting combination is commensurate to the claim limitation of a terminals being distributed across more than one deployer network. Even if the references in the instant case do not expressly suggest the specific combination claimed by the inventor, an assertion which the Examiner contests, the courts have stated "to support [a] conclusion that claimed combination is directed to obvious subject matter, references must either expressly or impliedly suggest claimed combination or Examiner must present

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convincing line of reasoning as to why artisan would have found claimed invention to have been obvious in light of references' teachings." Ex parte Clapp, 227 USPQ 972, 973 (BdPatApp&Int 1985). Furthermore, The Courts have already established that "[h]aving established that this knowledge was in the art, the Examiner could then properly rely, as put forth by the solicitor, on a conclusion of obviousness 'from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference.'" In re Bozek, 163 USPQ 545, 549 (CCPA 1969). In the instant case, the De Leo et al. reference clearly suggests a deployment across various networks by teaching an implementation across various networks and the Calvey reference is relied upon to show two such networks. Thus all the claimed elements/components were known in the prior art and a skilled artisan could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Appellants argue

Regarding claim 5, Appellants argue that

- a. the combination of the Calvey and De Leo et al. references would not arrive at the claimed limitation of querying the data warehouse to assess the effectiveness (page 45). Appellants state that no method is shown in the prior art references.
- b. No teaching was given to lead to querying a data warehouse. Appellants suggest surveys either at the terminal or via mail as alternatives (pages 46-47).
- c. No expectation of success as the prior art references do not show data entry in the "ware house" (page 47).

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Examiner's response

The Examiner respectfully disagrees as the data querying is a necessary step in identifying the advertisements shown at which location in the De Leo et al. system and the Calvey reference is relied upon to teach the effectiveness response feature (page 2, parag. 8 and 9) thus it would be obvious to a skilled artisan to measure the effectiveness of a promotion as taught by De Leo et al. via a response rate as taught by Calvey. Since all the claimed elements/components were known in the prior art, a skilled artisan could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Appellants argue

Regarding claim 6, Appellants argue that the feature of an advertising being "coincident" with transaction which is related to the advertising content (page 48). Appellants state a coincident is interpreted as in the time duration context.

- a. The feature of "how often" the coincidence is determined is absent in the prior art references (page 49).
- b. No teaching was given to combine the prior art references. Furthermore, Appellants illustrate the problems with the combination rationale by stating that (1) no evidence is given to show "better estimates", (2) no basis for comparison is given and (3) no combination is necessary.

Examiner's response

The Examiner respectfully disagrees as the De Leo et al. reference teaches the feature of advertisement based on the location of the ATM and the user's current transactions such

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as card provider and transaction amounts (col 5, lines 19-36; col 5, lines 43-60 and col 6, lines 50-55). The Calvey reference is relied upon to teach the effectiveness measurement feature on an ATM based targeted advertisement system thus it would be obvious to a skilled artisan to measure the effectiveness of a promotion as taught by De Leo et al. via a response rate as taught by Calvey. Since all the claimed elements/components were known in the prior art, a skilled artisan could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Appellants argue

Regarding claim 10, Appellants point to the discussion of claim 3.

Examiner's response

Examiner also points to the response of claim 3 for a detailed discussion.

Appellants argue

Regarding claim 12, Appellants argue that

- a. The feature of a data warehouse is not shown as per claim 9 (page 50).
- b. No evidence is given regarding better estimates (page 51).
- c. No teaching was given to combine the prior art references (page 51).

Examiner's response

The Examiner points to the response of claim 9 and respectfully disagrees as the De Leo et al. reference teaches the feature of advertisement based on the location of the ATM and the user's current transactions such as card provider and transaction amounts (col

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5, lines 19-36; col 5, lines 43-60 and col 6, lines 50-55). The Calvey reference is relied upon to teach the effectiveness measurement feature on an ATM based targeted advertisement system thus it would be obvious to a skilled artisan to measure the effectiveness of a promotion as taught by De Leo et al. via a response rate as taught by Calvey. Since all the claimed elements/components were known in the prior art, a skilled artisan could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Appellants argue

Regarding claim 13, Appellants point to the discussion of claim 6.

Examiner's response

The Examiner points to the response of claim 6 for a detailed discussion.

Appellants argue

Regarding claims 18 and 23, Appellants point to the discussion of claim 13.

Examiner's response

The Examiner points to the response of claim 13 for a detailed discussion.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this Examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

NVT

NVT

September 13, 2007

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